

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

Steve Sviggum, Commissioner,
Department of Labor and Industry,
State of Minnesota,

PROTECTIVE ORDER

Complainant,

vs.

Northern Industrial Erectors,

Respondent.

BACKGROUND:

Respondent, Northern Industrial Erectors, has requested that that Complainant provide the identities of the individuals who assisted Complainant during the inspection of Respondent during its investigation in the case against the Respondent. Respondent has also requested the inspection report of Duluth Missabi & Iron Range Railway Company (DM&IR), another employer Complainant cited in a different proceeding arising at the same work site. Complainant, Department of Labor and Industry, has an active enforcement proceeding against DM&IR.¹

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. Complainant is directed to disclose the identities of the individuals who provided information to Complainant during its investigation in this case. Complainant is also directed to disclose the identities of the individuals who provided information to Complainant during its investigation into DM&IR and Plant Management Inc. (PMI). Complainant is directed to produce the inspection report regarding DM&IR.

2. Disclosure of the identities of the persons described in Paragraph 1 and any documents which identify either the individuals' identities or information the

¹ The DM&IR proceeding is docketed at OAH as 15-1901-19804-2.

individuals provided shall be made only to counsel for Respondent and other qualified persons. Qualified persons shall include:

- a) The presiding Administrative Law Judge, the Administrative Law Judge's law clerks, clerks of court, court reporters and other court employees who may be involved in further proceedings in this matter;
- b) The parties to the above-entitled matter as necessary to prepare for trial; their counsel and their counsel's legal assistants; and their secretaries and clerical staff members;
- c) Private court reporters; their secretarial and clerical staff members; and their other employees; and
- d) Persons consulted or retained as witnesses in the above-entitled matter.

3. No recipient shall disclose the private information governed by this Protective Order to any other person for whom disclosure was not authorized by the terms of this Protective Order, nor shall he or she use the information for purposes other than trial preparation or settlement of this matter.

4. Any recipient of the private information covered by this Order, by accepting receipt of the information, agrees to be subject to the jurisdiction of the Administrative Law Judge in connection with any proceeding or hearing relating to that information and/or this Protective Order, including but not limited to, any proceeding relating to enforcement of this Protective Order.

5. In addition to the foregoing provision, counsel for Respondent shall execute the attached Exhibit A, reflecting acknowledgement of the provisions of this Protective Order. Prior to giving access to information covered by this Protective Order to any staff, expert or witness, counsel shall deliver a copy of this Protective Order to such person; and prior to disclosure that person shall agree in writing to comply with and be bound by this Protective Order by execution of the attached Exhibit A.

6. There shall be no reproduction whatsoever of the private information disclosed to the Respondent's counsel except that, as required in this litigation, copies, excerpts, or summaries may be shown or given to those authorized to receive such information pursuant to the terms of this Protective Order.

7. Upon the conclusion of this litigation, counsel for Respondent will return all private information subject to this Protective Order to Complainant in care of Complainant's counsel.

8. Respondent will inform Complainant if Respondent terminates the employment of any person whose statement is disclosed pursuant to this Protective Order within 3 years of the date of this Order.

9. Consistent with Minn. Stat. § 13.03, subd. 6, the Administrative Law Judge has assessed the benefit to Respondent against the potential for harm to the confidentiality interests of the Department and those of any person who has provided the data or who is the subject of the data, or is otherwise identified in the data. The Administrative Law Judge has considered whether notice to the subjects of the data is warranted. Based upon the restrictions imposed by this Protective Order, no notice to those persons is required in this matter.

10. Acceptance of the terms of this Protective Order does not constitute a waiver by the Department of Labor and Industry to invoke and claim the benefit of Minn. Stat. § 182.659, subd. 8 (2008) in the future.

Dated: September 25, 2009.

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

OAH Docket No. 7-1901-20455-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

Steve Sviggum, Commissioner,
Department of Labor and Industry,
State of Minnesota,

**NON-DISCLOSURE AGREEMENT
FOR PROTECTIVE ORDER –
EXHIBIT A**

Complainant,

vs.

Northern Industrial Erectors,

Respondent.

I, the undersigned, hereby acknowledge that I have read the attached Protective Order dated September 25, 2009, in OAH Docket No. 7-1901-20455-2, and understand the terms thereof and agree to be bound by all such terms. Without limiting the generality of the foregoing, I agree not to disclose any information covered by that Protective Order to any person or entity not authorized to receive that information. I further agree to use any such information disclosed to me solely for the purpose of this proceeding and for no other purpose.

I certify that I am authorized to receive and review information identified in the Protective Order” as that term is used in this Agreement.

I hereby submit myself to the jurisdiction of the Office of Administrative Hearings in Minnesota and the Minnesota Department of Labor and Industry and the Minnesota District Court for the Second Judicial District (Ramsey County) for the purpose of enforcing said Protective Order.

Date: _____, 2009

Signature

Type or Print Name

Address

Name of Employer

Name of Party

Signatory's Role in Proceeding